C.G.15 (2)

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. No. 293 /2004

PETITIONER : Baisakhu son of Bhaddu, aged about 25 years, by caste Harijan, R/o. Village Haraee, Tah. Bharatpur, Distt. Korea (C.G.).

ORIGINAL PLAINTIFF No 2

VERSUS

RESPONDENTS :

1. Phudda son of Kunjal, aged about 60 years, by caste - Harijan, R/o. village-Amara-dandi, P.S. Janakpur, Tah. Bharatpur, Distt. Korea (C.G.)

DEFENDANT No 1

2. Bhaddu son of Arna, aged about 52 years, by caste-Harijan R/o.vill. Haraee, Tah.Bharatpur, Distt.Korea. DEFENDANT No. 2

3. State of Chhattisgarh, Through- Collector Korea, Post Baikunthpur (C.G.).

DEFENDANT No-3

4. Vishambhar son of Bhaddu, aged about 26 years,

5. Sita Sharan son of Bhaddu, aged about 22 years.

Both by caste Harijan, R/o. Haraee, Tah. Bharatpur, Distt. Korea (C.G.).

PLAINTIFFS NO-1 AND 2

RECEIVED COPY 26/8/04 Clerk to A. G. Bilaspur

P. R. No. 2925/04 Presented by Bhuvnesh Tiwari 26-8-04

Tiwari Adv.

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA.

Details of the petition :-

1) PARTICULARS OF THE PETITIONER :-

As given above in the cause title.

(15)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No. 2931/04 **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

03/01/2005

Shri Malay Kumar Bhaduri, counsel for the petitioner.

Shri Vinod Shrivastava, G.A. for the State/respondents.

Heard on admission.

The case of the petitioner is that he filed a Civil Suit for declaration of status recovery of possession of the suit property before the trial Court and in that proceedings he also preferred an application for appointment of third person as receiver under order 40 rule 1 of the CPC alleging that the defendant No.1 has illegally taken the possession of the property since 1999 and thereafter has got his name mutated in the Revenue records and under such circumstances a third person as receiver should be appointed. This application was opposed by the defendant on the ground that he was in possession of the suit property since last 30-35 years and the plaintiff was only in possession of the suit property and the suit has been filed on the basis of illegal will and sale deed.

Learned trial Court allowed the application and appointed receiver of the suit property. A similar prayer against which the defendants/respondent No.1 preferred Miscellaneous Civil Appeal No. 01/04 before the learned ADJ, Manindragarh and who by the impugned order has allowed the appeal and set aside the order of appointment of receiver.

Learned counsel for the petitioner submits that the petitioner prefers that the respondent No.1 may alienate the property which may result in irreparable injury to the petitioner and therefore learned ADJ ought to have dismissed the appeal and confirmed the order of appointment of receiver by the Civil Judge.

GRPRJ—FS/78 —9/200(—50,000.

(16)

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	I have heard learned counsel for the petitioner. The respondent is not in possession of the suit property and that the appellants are in the possession of the suit property since 1999 there is no allegation for appointment of the receiver or any third person and that if the defendant is allowed to continue with the possession of the suit property some irreparable loss is likely to ensue the petitioner or the nature of property may be changed by the respondents and under these circumstances, I do not find any reason to interfere and set aside the impugned order and to interfere invoking extra ordinary jurisdiction under article 227 of the Constitution of India and under these circumstances, the petition is dismissed. In view of this order, I.A. No. 6312/2004 stands disposed of. Sd/- DHIRENDRA MISHRA Judge	

GRPRJ—FS/78 —9/200(—50,000.